

Message Text

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TO AMEMBASSY BRUSSELS IMMEDIATE

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TOSEC 33

E.O. 11652:N/A

TAGS:ETRD, OPEC, XF

SUBJECT: ACTION MEMORANDUM: PROPOSED ROOSA LETTER ON FCNS

--- (S/S NO. 7424284)

FOR THE SECRETARY FROM ENDERS

1) AT TRILATERAL COMMISSION DINNER DECEMBER 9, ROBERT ROOSA
ASKED YOU ABOUT POSSIBILITY OF NEGOTIATING FRIENDSHIP,
COMMERCE, AND NAVIGATION (FCN) TREATIES WITH OPEC COUNTRIES.

2) DEPARTMENT HAS DRAFTED FOLLOWING SUGGESTED REPLY TO
ROOSA: QUOTE. DEAR MR. ROOSA, DURING THE TRILATERAL COMMIS-
SION DINNER ON DECEMBER 9, YOU ASKED WHETHER THE UNITED STATES
MIGHT IMPROVE RELATIONS WITH THE OPEC STATES BY NEGOTIATING
FRIENDSHIP, COMMERCE, AND NAVIGATION (FCN) TREATIES WITH
THEM.

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3) AS YOU KNOW, THE TRADITIONAL FCN TREATY IS DESIGNED TO ESTABLISH AN AGREED GRAMEWORK WITHIN WHICH MUTUALLY BENEFICIAL ECONOMIC RELATIONS BETWEEN TWO COUNTRIES CAN TAKE PLACE. AS SUCH, IT SETS FORTH THE TERMS UPON WHICH TRADE AND SHIPPING ARE CONDUCTED, AND GOVERNS THE RIGHTS OF INDIVIDUALS AND BUSINESS FIRMS FROM ONE STATE LIVING, DOING BUSINESS, OR OWNING PROPERTY WITHIN THE JURISDICTION OF THE OTHER STATE.

4) AT THE PRESENT TIME, IRAN IS THE ONLY OPEC COUNTRY WITH WHOM THE UNITED STATES HAS A DETAILED FCN TREATY CURRENTLY IN FORCE. WE ALSO HAVE TWO, MORE LIMITED TREATIES OF THIS TYPE WITH IRAQ AND SAUDI ARABIA. FURTHERMORE, FCN AGREEMENTS EXIST WITH TWO OTHER OPEC COUNTRIES, ECUADOR AND VENEZUELA, BUT THE COMMERCIAL PROVISIONS OF THESE ACCORDS WERE TERMINATED IN THE 19TH CENTURY.

5) WE ARE OF COURSE SEEKING TO IMPROVE ECONOMIC RELATIONS WITH THE OPEC COUNTRIES. HOWEVER, WHETHER FCN TREATIES ARE THE BEST INSTRUMENTS FOR ACHIEVING THIS END IS NOT CERTAIN.

6) FCN TREATIES ARE OFTEN VERY DIFFICULT TO NEGOTIATE BECAUSE THEY CAN COVER A WIDE RANGE OF ISSUES AFFECTING THE RIGHTS AND PRIVILEGES OF INDIVIDUALS AND COMPANIES IN SUCH SENSITIVE COMMERCIAL AREAS AS TAXES, ACQUISITION OF PROPERTY, REMITTANCE OF EARNINGS AND CAPITAL, EXPROPRIATION OR NATIONALIZATION AND ITS COMPENSATION, REFERRAL OF DISPUTES TO THE INTERNATIONAL COURT OF JUSTICE, AND, PARTICULARLY FOR ARAB COUNTRIES, RELIGIOUS FREEDOM. INDEED, OPENING UP THIS RANGE OF ISSUES COULD RAISE MORE QUESTIONS THAN IT SOLVES. A MORE APPROPRIATE APPROACH MIGHT BE TO NEGOTIATE A SERIES OF SPECIALIZED AGREEMENTS, SUCH AS A TAX TREATY, TAILORING THE AGREEMENT TO THE SPECIFIC BILATERAL SITUATION. MOREOVER, MANY OF THESE ISSUES ARE DEALT WITH IN THE CONTEXT OF JOINT ECONOMIC COMMISSIONS WHICH THE UNITED STATES HAS CONCLUDED WITH SEVERAL ARAB STATES WITHIN THE LAST TWO YEARS.

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7) FINALLY, WE HAVE OFTEN ENCOUNTERED RESISTANCE FROM MANY DEVELOPING COUNTRIES WHEN IN RECENT YEARS WE HAVE SUGGESTED FCN NEGOTIATIONS SINCE THEY ARE SOMETIMES RELUCTANT TO UNDERTAKE THE KINDS OF COMMITMENTS THESE TREATIES GENERALLY IMPLY.

8) I DO APPRECIATE YOUR RAISING THIS POSSIBILITY, HOWEVER, SINCE THE FCN APPROACH MIGHT BE USEFUL IN

INDIVIDUAL CASES. WE WILL THEREFORE TAKE YOUR SUGGESTION
INTO ACCOUNT IN CONSIDERING HOW TO IMPROVE OUR ECONOMIC
RELATIONS WITH OIL PRODUCERS ON A CASE BY CASE BASIS.
BEST REGARDS, HENRY A. KISSINGER. END QUOTE.

RECOMMENDATION:

THAT YOU AUTHORIZE ASSISTANT SECRETARY ENDERS TO SIGN
THE LETTER ON YOUR BEHALF.

APPROVE DISAPPROVE INGERSOLL

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